

### **ADVISORY OPINION 2004-002**

**Any advisory opinion rendered by the registry under subsection (1) or (2) of this section may be relied upon only by the person or committee involved in the specific transaction or activity with respect to which the advisory opinion is rendered. KRS 121.135(4).**

March 29, 2004

Hon. Jack D. Wood  
2000 Floradora Dr.  
Louisville, KY 40272

Dear Mr. Wood:

This is in response to your February 25, 2004 request for an Advisory Opinion regarding how to report a candidate's out-of-pocket expenses relating to an election. During the 2003 Primary and Regular elections, you were a candidate for Attorney General. You wish to file an amendment to your termination report, and you ask the following specific question:

**I am requesting an Advisory Opinion pursuant to KRS 121.135, on whether a candidate may report their out of pocket expenses for election related expenses (where they do not seek or want reimbursement from campaign funds) for travel as an in-kind contribution that does not have to be reimbursed ...**

KRS 121.220(1) requires a candidate to “designate one (1) primary campaign depository for the purpose of depositing all contributions received and disbursing all expenditures made by the candidate...” (Emphasis added.) Similarly, under KRS 121.160, a candidate’s treasurer is required to deposit all contributions into the primary campaign account, make and authorize all expenditures and maintain a receipt for each expenditure made. Absent the creation of a campaign committee under KRS 121.170 and pursuant to KRS 121.180(9), a candidate is similarly responsible for keeping records of all receipts and all expenditures.

All expenses, including for travel, paid for by a candidate relating to his or her campaign must be disbursed from or reimbursed from the candidate’s campaign account. While there is nothing in KRS Chapter 121 to prohibit a candidate from making incidental expenditures using his or her personal funds, such expenditures must be reimbursed and receipts must be maintained to comply with the record keeping, reporting and disclosure provisions of KRS 121.220 and KRS 121.160. To permit otherwise, would interfere with the disclosure and audit functions of the Registry as provided in KRS Chapter 121. See, e.g., Kentucky Registry of Election Finance v. “Hello Peppy!” Campaign Committee, KREF Case Nos. 2002-82 and 2002-83 (finding nonknowing violations of KRS 121.160 for failure to maintain a central depository, failure to deposit all contributions into the central depository and failure to make or authorize all expenditures from the depository).

Regarding your proposal to report your travel expenses as an in-kind contribution from you, the candidate, KRS 121.015(6) defines contribution as any:

- (a) Payment, distribution, loan, deposit, or gift of money or other thing of value, to a candidate, his agent, a slate of candidates, its authorized agent, a committee, or contributing organization ...
- (b) Payment by any person other than the candidate, his authorized treasurer, a slate of candidates, its authorized treasurer, a committee, or a contributing organization, of compensation for the personal services of another person which are rendered to a candidate, slate of candidates, committee, or contributing organization, or for inauguration activities;
- (c) Goods, advertising, or services with a value of more than one hundred dollars (\$100) in the aggregate in any one (1) election which are furnished to a candidate, slate of candidates, committee, or contributing organization or for inauguration activities without charge, or at a rate which is less than the rate normally charged for the goods or services; or
- (d) Payment by any person other than a candidate, his authorized treasurer, a slate of candidates, its authorized treasurer, a committee, or contributing organization for any goods or services with a value of more than one hundred dollars (\$100) in the aggregate in any one (1) election which are utilized by a

candidate, slate of candidates, committee, or contributing organization, or for inauguration activities. (Emphasis added.)

Under the provisions of KRS 121.015(6), a candidate may make unlimited contributions to his or her own campaign by depositing funds in the candidate's campaign account. Further, a candidate may provide goods, advertising, or services (e.g. the use of a personal computer) privately owned prior to his or her campaign, which would constitute an in-kind contribution. However, the payment of funds by a candidate for gas, lodging, etc., constitute expenditures, which must be made from or subsequently reimbursed from the candidate campaign account's primary depository. Therefore, your proposed method of reporting your travel expenses as an in-kind contribution from you to your campaign would not comply with Kentucky campaign finance law.

This opinion reflects the Registry's consideration of the specific transactions posed by your letter. If you require any additional information, please do not hesitate to contact the Registry staff.

Sincerely,

Rosemary F. Center  
General Counsel

Enclosures

RFC/jh

Cc: Registry Members

Sarah M. Jackson  
Executive Director